# EXHIBIT 9

### In The Matter Of:

REFCO, INC. SECURITIES LITIGATION

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# ORAL ARGUMENT - Vol. 1 September 14, 2012

### **CONFIDENTIAL**

#### MERRILL CORPORATION

LegaLink, Inc.

225 Varick Street 10th Floor New York, NY 10014 Phone: 212.557.7400 Fax: 212.692.9171

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## CONFIDENTIAL ORAL ARGUMENT - 9/14/2012

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1	MOTION/ARGUMENT - Mr. Beus	1	MOTION/ARGUMENT - Mr. Beus
11:24:05 2	respectfully disagree. I think it's his	11:26:01 2	I mean, if you want to rely on
11:24:07 3	responsibility as an expert to render his	11:26:03 3	Maggio's deposition as a fact, I am not
11:24:09 4	independent opinions, and it's our	11:26:05 4	opining about that right now, but you cannot
11:24:11 5	responsibility as lawyers to tender those.	11:26:07 5	absolutely rely on the R and R as a statement
11:24:13 6	PROFESSOR CAPRA: And what is	11:26:11 6	of fact for any of this. And you know that as
11:24:13 7	the point of this? This is something that you	11:26:13 7	well as I do. Right?
11:24:15 8	could argue on appeal. But what's the point	11:26:14 8	MR. BEUS: We apologize for
11:24:17 9	of this? It's law of the case.	11:26:15 9	that.
11:24:19 10	MR. BEUS: I don't think I can	11:26:16 10	PROFESSOR CAPRA: Okay. So
11:24:20 11	argue it on appeal unless we tender the	11:26:17 11	let's proceed.
11:24:22 12	opinion. And that's I don't mean to insult	11:26:20 12	MR. BEUS: Could I have you
11:24:25 13	you or Judge Rakoff, obviously.	11:26:22 13	look at the handout
11:24:28 14	PROFESSOR CAPRA: Okay. Well,		PROFESSOR CAPRA: I think you
11:24:29 15	let's proceed.	11:26:23 15	need to have this opinion redone. That's my
11:24:30 16	MR. BEUS: We're going to make	11:26:26 16	thought on it. I mean, I think there's so
11:24:31 17	a record, and we're going to try to do it	11:26:28 17	much offensive in this opinion that it really
11:24:33 18	respectfully. If I've offended you, I	11:26:30 18	should be redone. Is that a possibility?
11:24:37 19	apologize. But we will not withdraw it.	11:26:35 19	MR. BEUS: Sure.
11:24:39 20	PROFESSOR CAPRA: I'm also	11:26:37 20	MS. COBERLY: Special Master
11:24:40 21	offended, by the way, of this expert using	11:26:38 21	Capra, there's a September 30th cutoff for
11:24:42 22	statements in the R and R as if they were	11:26:41 22	expert discovery that's firm.
11:24:44 23	facts when actually all they were were	11:26:42 23	PROFESSOR CAPRA: Then we'll
11:24:46 24	restating what was alleged in your complaint.	11:26:43 24	deal with what we have, then. I'm sorry.
11:24:53 25	So here's a couple. Paragraph 86.	11:26:45 25	Thank you for making me aware of that. So
11111100 20		11.20.10 20	Thank you for making me aware of that. So
	D 1 F 1		D 1F3
	Page 151		Page 153
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